



Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2017–N093; FXES11140800000–178–FF08EVEN00]

Low-Effect Habitat Conservation Plan for the Morro Shoulderband Snail; Rothman Parcel, Community of Los Osos, San Luis Obispo County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have received an application from Philip R. Rothman and Pamela J. Rothman for a 10-year incidental take permit (ITP) under the Endangered Species Act of 1973, as amended. The application addresses the potential for “take” of the federally endangered Morro shoulderband snail likely to occur incidental to the construction and maintenance of a single-family residence on an existing legal parcel and associated infrastructure/landscaping in the unincorporated community of Los Osos, San Luis Obispo County, California. We invite comments from the public on the application package, which includes a draft low-effect habitat conservation plan (HCP) and draft low-effect screening

form and environmental action statement, which constitutes our proposed National Environmental Policy Act (NEPA) compliance.

DATES: To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may download a copy of the draft HCP and draft low-effect screening form and environmental action statement on the internet at <http://www.fws.gov/ventura/>, or you may request copies of the documents by U.S. mail to our Ventura office, or by phone (see **FOR FURTHER INFORMATION CONTACT**). Please address written comments to Stephen P. Henry, Field Supervisor, Ventura Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2493 Portola Road, Suite B, Ventura, CA 93003. You may alternatively send comments by facsimile to (805) 644-3958.

FOR FURTHER INFORMATION CONTACT: Julie M. Vanderwier, Senior Fish and Wildlife Biologist, at the Ventura office address or by phone at (805) 677-3400.

SUPPLEMENTARY INFORMATION: We have received an application for an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*). The application addresses take of the federally endangered Morro shoulderband snail (*Helminthoglypta walkeriana*) likely to occur incidental to the construction and maintenance of a single-family residence and associated infrastructure/landscaping. The requested permit term is 10 years, and the permit would be subject to renewal. We invite

comments from the public on the application package. Issuance of an ITP pursuant to this HCP has been determined to be eligible for a categorical exclusion under NEPA.

Background

The Morro shoulderband snail was listed as endangered on December 15, 1994 (59 FR 64613). Section 9 of the Act and its implementing regulations (16 U.S.C. 1531 *et seq.*) prohibit the take of fish or wildlife species listed as endangered or threatened. Under the Act, “take” is defined to include the following activities: “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct” (16 U.S.C. 1532). Under section 10(a)(1)(B) of the Act, we may issue permits to authorize take of listed species if it is incidental to other lawful activities and not the purpose of carrying out that activity. The Code of Federal Regulations provides those regulations governing incidental take permits for threatened and endangered species at 50 CFR 17.32 and 17.22. Issuance of an incidental take permit must not jeopardize the existence of any federally listed fish, wildlife, or plant species.

The Applicant’s Proposed Project

The project involves the construction and maintenance of a single-family residence and associated infrastructure/landscaping on an existing, legal parcel in the Cabrillo Estates subdivision of Los Osos, County of San Luis Obispo, California. The HCP provides the support necessary for the Service to issue an ITP that would authorize take, in this instance, of the Morro shoulderband snail (*Helminthoglypta walkeriana*). The County of San Luis Obispo requires demonstration that the property owner is in compliance with the Endangered Species Act of 1973, as amended (Act), as part of their permitting requirements.

The draft HCP contains two alternatives to the proposed action: “No Action” and “Project Redesign.” Under the “No Action” alternative, an ITP for the Rothman single-family residence would not be issued. The Rothman single-family residence could not legally be built, and the mitigation fee would not be available to contribute to recovery actions for Morro shoulderband snails. Since the property is privately owned, there are ongoing economic considerations (e.g., payment of property taxes) associated with continued ownership of a property and its intended use. The sale of the property for purposes (e.g., as a conservation easement) other than the identified activity is not economically feasible. For these reasons, the “No Action” alternative has been rejected.

The “Project Redesign” alternative would involve redesign of the Rothman project to reduce or avoid altogether take of Morro shoulderband snail. This alternative was not selected, due to the parcel’s small size and marginal value to the long-term conservation of the Morro shoulderband snail of habitat on the site. A reduction or redesign of the project footprint would not meet the applicants’ needs and would not significantly reduce the effects of the taking of Morro shoulderband snails such that there would be a greater benefit to species survival and recovery. For these reasons, the “Project Redesign” alternative has also been rejected.

Our Preliminary Determination

We have determined that the applicants’ proposal will have a minor or negligible effect on the Morro shoulderband snail and that the HCP qualifies for processing as a low-effect plan consistent with our Habitat Conservation Planning and Incidental Take Permit Processing Handbook (December 2016). Three criteria form the basis for our determination: (1) the proposed project as described in the HCP would result in minor or negligible effects on federally

listed, proposed, and/or candidate species and their habitats; (2) implementation of the HCP would result in minor negligible effects on other environmental values or resources; and (3) HCP impacts, considered together with those of other past, present, and reasonably foreseeable future projects, would not result in cumulatively significant effects. It is our preliminary determination that HCP approval and ITP issuance qualify for categorical exclusion under the NEPA (42 U.S.C. 4321 *et seq.*), as provided by the Department of the Interior implementing regulations in part 46 of title 43 of the Code of Federal Regulations (43 CFR 46.205, 46.210, and 46.215). However, we may revise our determination based upon review of public comments received in response to this notice.

Next Steps

We will evaluate the permit application, including the draft HCP and comments we receive, to determine whether it meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of the ITP would comply with section 7 of the Act by conducting an intra-Service consultation pursuant to section 7(a)(2).

Public Review

We request comments from the public regarding our preliminary determination that the applicant's proposal will have a minor or negligible effect on the Morro shoulderband snail and that the HCP qualifies for processing as low effect. We will evaluate comments received and make a final determination regarding whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will incorporate the results of our intra-Service consultation, in combination with the above findings, in our final analysis to determine whether to issue the ITP.

If all of our requirements are met, we will issue the ITP to the applicant. Permit issuance would not occur less than 30 days after the publication date of this notice.

Public Comments

If you wish to comment on the permit application, HCP, and associated documents, you may submit comments by either of the methods provided in **ADDRESSES**.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

Authority

We provide this notice under section 10(c) of the Act and the NEPA public involvement regulations (40 CFR 1500.1(b), 1500.2(d), and 1506.6).

Dated: August 7, 2017.

Stephen P. Henry,

Field Supervisor,

Ventura Fish and Wildlife Office,

Ventura, California.

[FR Doc. 2017-16976 Filed: 8/10/2017 8:45 am; Publication Date: 8/11/2017]